

# THE CLEAN AIR ACT

The Clean Air Act (CAA) was established in 1990 to address the nation's problems with air pollutants. Through the CAA, the Environmental Protection Agency (EPA) set primary and secondary standards for the amounts of any pollutant that can be in the air anywhere in the United States. Currently, there are six criteria pollutants included in the National Ambient Air Quality Standards (NAAQS): carbon monoxide (CO), nitrogen dioxide (NO<sub>x</sub>), particulate matter (PM-10 and PM-2.5), ozone, sulfur dioxide (SO<sub>2</sub>), and lead (Pb).

On December 31, 2006, a large portion of Maricopa County and the Apache Junction portion of Area A failed to reach attainment of the federal PM-10 health standards. The Maricopa Association of Governments (MAG), which is the designated regional agency for air quality, is required to submit a State Implementation Plan (SIP) to the EPA by December 31, 2007 that includes measures to reduce PM-10 emissions over the next three years. As of May 23, 2007, MAG has suggested 55 measures to reduce PM-10 emissions. Potential implementing entities for the measures include state, local and county governments and the private sector. Some of the state measures include a Dust-Free Certification program; paving or stabilizing dirt roads, alleys and shoulders; and banning or discouraging use of leaf blowers on High Pollution Advisory Days (HPA).

Additionally, on April 15, 2004 the EPA designated Area A as nonattainment for the NAAQS for ozone; the Maricopa County nonattainment area is classified as basic and is required to reach attainment of the standard at all ozone monitors by June 15, 2009. MAG is also required to submit a SIP to the EPA by June 15, 2007 that demonstrates an approach to reducing the ozone level in the air and emissions of ozone precursors.

The Arizona Department of Environmental Quality estimates that the provisions contained in SB 1552 will reduce PM-10 emissions by 10,425 tons per year, VOC emissions by 12,243 tons per year and NO<sub>x</sub> by 5,529 tons per year. According to MAG, the total reduction of PM-10 needed for attainment is 13,782 tons.

Area A – means greater Phoenix metropolitan area, a portion of Apache Junction and a portion of Yavapai County.

A county with a population of two million or more persons or any portion of a county within an area designated by the EPA as a serious PM-10 nonattainment area or a maintenance area that was designated as a serious PM-10 nonattainment area – Currently, this description means Maricopa County in its entirety and the Apache Junction portion of Area A.

## Provisions

### Unpaved Roads

- Requires a city or town in Area A and a county which contains any portion of Area A to develop and implement plans to stabilize unpaved roads, alleys and unpaved shoulders on targeted arterials by January 1, 2008.

- Specifies that the plans of a county which contains any portion of Area A must address the performance goals; the criteria for targeting the roads, alleys and shoulders; a schedule for implementation; funding options; and reporting requirements.

- Requires a city or town in Area A and a county which contains any portion of Area A to give priority to:

1. Unpaved roads with more than 100 average daily trips; and
2. Unpaved shoulders on arterial roads where vehicle use is evident or anticipated due to projected traffic volume.

- Allows counties to use petroleum based or non-petroleum based products in the maintenance and repair of unpaved roads, alleys and shoulders in any county where the control officer certifies that the emissions from such roads, alleys or shoulders may endanger compliance with the NAAQS.

#### Parking Areas

- Requires that no later than March 31, 2008, a city and town in Area A, Maricopa County and the Apache Junction portion of Area A, adopt or amend codes or ordinances and, no later than October 1, 2008, commence enforcement of those codes or ordinances as necessary to require dustproof paving methods for the following:

1. Parking, maneuvering, ingress and egress areas at developments other than residential buildings with four or fewer units; and
2. Parking, maneuvering, ingress and egress areas that are 3000 square feet or more in size at residential buildings with four or fewer units.

#### Vacant Lots

- Requires that no later than March 31, 2008, a city and town in Area A and a county which contains any portion of Area A, adopt or amend codes or ordinances as necessary to restrict vehicle parking and use on unpaved or unstabilized vacant lots.

- Requires that no later than March 31, 2008, Maricopa County and the Apache Junction portion of Area A, adopt rule provisions and enforce those rule provisions pertaining to the stabilization of disturbed surfaces of vacant lots no later than October 1, 2008.

- Stipulates that the county rules must include reasonable written notice to the property owner that the unpaved disturbed surface of a vacant lot is required to be stabilized and must also grant the county authority to enter the lot to stabilize the disturbed surface at the expense of the owner if it has not been stabilized by the day set for compliance.

- Specifies that vacant lots do not include any site that has been issued a county dust control permit.

- Defines disturbed surface.

#### Leaf Blowers

- Stipulates that beginning on March 31, 2008, employees or contractors of a city or town in Area A or a county which contains any portion of Area A (beginning on the general effective date) are prohibited from operating leaf blowers, except in vacuum mode, on high pollution advisory days.
- Prohibits employees or contractors of a city or town in Area A or a county which contains any portion of Area A from blowing landscape debris into public roadways at any time.
- Exempts any site that has been issued a county dust control permit.
- Requires a city and town in Area A to adopt, implement and enforce an ordinance by March 31, 2008 that bans the blowing of landscape debris into public roadways at any time by any person.
- Prohibits any person from blowing landscape debris into public roadways in Maricopa County and the Apache Junction portion of Area A after March 31, 2008.
- Requires that by March 31, 2008, a county that contains any portion of Area A, Maricopa County and the Apache Junction portion of Area A, to adopt, implement and enforce an ordinance that prohibits the operation of leaf blowers, except on surfaces that have been stabilized.

In Maricopa County and the Apache Junction portion of Area A:

- Requires any person operating a leaf blower for remuneration to successfully complete training approved by the Arizona Department of Environmental Quality (ADEQ) on how to operate a leaf blower in a manner designed to minimize the generation of fugitive dust emissions at least every three years.
- Specifies that any person required to complete training must complete the initial training no later than December 31, 2008.
- Requires ADEQ to produce printed materials for persons who sell or rent equipment used for blowing landscape debris for the purpose of educating and informing the user of the equipment on the safe and efficient use of the equipment.
- Requires any person who rents or sells equipment that is used for blowing landscape debris to provide the buyer or renter of the equipment with the materials approved by ADEQ.

#### Street Sweepers

- Requires new or renewed contracts for street sweeping on city streets in a city or town in Area A and in a county which contains any portion of Area A, no later than March 31, 2008, to specify that the street sweepers meet the South Coast Air Quality Management rule pertaining to pick-up efficiency and PM-10 emissions.

#### Off-Highway Vehicles

- Requires a city and town in Area A to adopt, implement and enforce an ordinance that prohibits the operation of any vehicle, including an off-highway vehicle (OHV), an all-terrain vehicle (ATV) or an off-road recreation motor vehicle (ORRMV), on an unpaved surface that is not a public or private road, street or lawful easement and that is closed by the landowner.

- Prohibits a person from operating an OHV, an ATV or an ORRMV on an unpaved surface during any HPA by ADEQ for particulate matter.
- Exempts the operation of vehicles used in the normal course of business or the normal course of government operations.
- Clarifies that this does not prohibit or preempt the enforcement of any similar ordinance that is adopted by a city or town in Area A before March 31, 2008 for purposes of dust abatement.
- Prescribes a Class 3 misdemeanor for a violation of a city or town ordinance prohibiting OHVs on unpaved surfaces.
- Allows a judge to order a person to perform at least 8-24 hours of community restitution or to complete an approved OHV safety course, or both, in lieu of a fine.

The following provisions apply in Area A:

- Prohibits a person from operating an OHV, an ATV or an ORRMV, on an unpaved surface that is not a public or private road, street or lawful easement during any high pollution advisory day forecast by ADEQ.
- Provides exemptions for:
  1. An event that is intended for an OHV, an ATV or an ORRMV and that is endorsed, authorized, permitted or sponsored by a public agency, occurs on a designated route or area and includes dust abatement measures at all staging areas, parking areas and entrances;
  2. An event that occurs at a facility where an admission or use fee is charged and includes dust abatement measures;
  3. A closed course that is maintained with dust abatement measures;
  4. An OHV, an ATV or an ORRMV used in the normal course of business or government operations; or
  5. Golf carts that are used as part of a private or public golf course.
- Allows the control officer or other enforcement officer to issue citations and prescribes the following penalties:
  1. A warning for the first violation;
  2. A civil penalty of \$50 for the second violation;
  3. A civil penalty of \$100 for the third violation; and
  4. A civil penalty of \$250 for the fourth or any subsequent violation.